



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

HOUSE BILL NO. 135

WEDNESDAY, JANUARY 18, 2006

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE March 8, 2006
2:58 pm

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adair

AN ACT relating to gubernatorial power to reschedule elections during a state of emergency, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 39A.100 is amended to read as follows:

2 (1) In the event of the occurrence or threatened or impending occurrence of any of the
3 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the
4 Governor may declare, in writing, that a state of emergency exists. The Governor
5 shall have and may exercise the following emergency powers during the period in
6 which the state of emergency exists:

7 (a) To enforce all laws, and administrative regulations relating to disaster and
8 emergency response and to assume direct operational control of all disaster
9 and emergency response forces and activities in the Commonwealth;

10 (b) To require state agencies and to request local governments, local agencies, and
11 special districts to respond to the emergency or disaster in the manner
12 directed;

13 (c) To seize, take, or condemn property for the protection of the public or at the
14 request of the President, the Armed Forces, or the Federal Emergency
15 Management Agency of the United States, including:

16 1. All means of transportation and communication;

17 2. All stocks of fuel of whatever nature;

18 3. Food, clothing, equipment, materials, medicines, and all supplies; and

19 4. Facilities, including buildings and plants;

20 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
21 subsection among the inhabitants of the Commonwealth and to account to the
22 State Treasurer for any funds received for the property;

23 (e) To make compensation for the property seized, taken, or condemned under
24 paragraph (c) of this subsection;

- 1 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
 2 uncooperative personnel from the scene of the emergency, and to command
 3 those persons or groups assembled at the scene to disperse. A person who
 4 refuses to leave an area in which a written order of evacuation has been issued
 5 in accordance with a written declaration of emergency or a disaster may be
 6 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
 7 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
 8 options until all reasonable efforts for voluntary compliance have been
 9 exhausted;
- 10 (g) To declare curfews and establish their limits;
- 11 (h) To prohibit or limit the sale or consumption of goods or commodities for the
 12 duration of the emergency;
- 13 (i) To perform and exercise other functions, powers, and duties deemed
 14 necessary to promote and secure the safety and protection of the civilian
 15 population;
- 16 (j) To request any assistance from agencies of the United States as necessary and
 17 appropriate to meet the needs of the people of the Commonwealth; and
- 18 (k) Upon the recommendation of the Secretary of State, to declare by executive
 19 order a different time or place for holding~~[-state]~~ elections in an election
 20 area~~[district]~~ for which a state of emergency has been declared for part or all
 21 of the election area~~[district]~~. The election shall be held within thirty-five
 22 (35)~~[twenty-(20)]~~ days from the date of the suspended or delayed election. The
 23 State Board of Elections shall establish procedures for election officials to
 24 follow.
- 25 (2) In the event of the occurrence or threatened or impending occurrence of any of the
 26 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
 27 the judgment of a local chief executive officer is of such severity or complexity as

1 to require the exercise of extraordinary emergency measures, the county
2 judge/executive of a county other than an urban-county government, or mayor of a
3 city or urban-county government, or chief executive of other local governments or
4 their designees as provided by ordinance of the affected county, city, or urban-
5 county may declare in writing that a state of emergency exists, and thereafter,
6 subject to any orders of the Governor, shall have and may exercise for the period as
7 the state of emergency exists or continues, the following emergency powers:

8 (a) To enforce all laws and administrative regulations relating to disaster and
9 emergency response and to direct all local disaster and emergency response
10 forces and operations in the affected county, city, urban-county, or charter
11 county;

12 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
13 personnel from the scene of the emergency, and to command persons or
14 groups of persons at the scene to disperse. A person who refuses to leave an
15 area in which a written order of evacuation has been issued in accordance with
16 a written declaration of emergency or a disaster may be forcibly removed to a
17 place of safety or shelter, or may, if this is resisted, be arrested by a peace
18 officer. Forcible removal or arrest shall not be exercised as options until all
19 reasonable efforts for voluntary compliance have been exhausted;

20 (c) To declare curfews and establish their limits;

21 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
22 without regard to procurement codes or budget requirements, the goods and
23 services essential for protection of public health and safety or to maintain or to
24 restore essential public services; and

25 (e) To request emergency assistance from any local government or special district
26 and, through the Governor, to request emergency assistance from any state
27 agency and to initiate requests for federal assistance as are necessary for

1 protection of public health and safety or for continuation of essential public
2 services.

3 Section 2. KRS 117.187 is amended to read as follows:

- 4 (1) The State Board of Elections shall regularly provide special training regarding the
5 election laws and methods of enforcement to all members of county boards of
6 elections, county attorneys, Commonwealth's attorneys, and certain members of the
7 Kentucky State Police.
- 8 (2) The county board of elections shall provide special training before each primary and
9 regular election to all election officers, alternates, and certified challengers
10 regarding their duties and the penalties for failure to perform. Election officers,
11 including alternates, and certified challengers shall attend the training session,
12 unless excused by the county board of elections for reason of illness or other
13 emergency. Any person who fails to attend a training session without being excused
14 shall be prohibited from serving as an election officer or challenger for a period of
15 five (5) years. The training provided by the county board of elections shall include,
16 but not be limited to, the following:
- 17 (a) Operation of the voting machine or ballot cards;
 - 18 (b) Posting of necessary signs and notices at the polling place;
 - 19 (c) Voter assistance;
 - 20 (d) Maintaining precinct rosters;
 - 21 (e) Confirmation of a voter's identity;
 - 22 (f) Challenge of a voter;
 - 23 (g) Completing changes of address or name at the polling place;
 - 24 (h) Qualifications for voting in a primary election;
 - 25 (i) Electioneering and exit polling;
 - 26 (j) Write-in voting procedures;
 - 27 (k) Persons who may be in the voting room;


- 1 (l) Election violations and penalties;
- 2 (m) Assistance which may be provided by law enforcement officers;
- 3 (n) Election reports;
- 4 (o) Disability awareness;~~{and}~~
- 5 (p) Provisional voting process; and
- 6 (q) Election emergency contingency plan.
- 7 (3) The county attorney shall attend the training session for election officers to assist in
- 8 explaining the duties and penalties for failure to perform.
- 9 (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of
- 10 actual expenses shall be paid by the county to the election officers for attending the
- 11 training session.
- 12 Section 3. KRS 117.345 is amended to read as follows:
- 13 (1) The cost of all elections held in any county shall be allowed by the fiscal court and
- 14 paid by the county treasurer, except as otherwise provided by law.
- 15 (2) When the cost of any election has been allowed by the fiscal court and paid by the
- 16 county treasurer, and within sixty (60) days following the date of the election, the
- 17 county treasurer shall certify a statement of the number of precincts in the county,
- 18 the date, and kind of election to the State Board of Elections, including an election
- 19 that was delayed or postponed in accordance with Section 1 of this Act. The
- 20 certification shall be filed within ninety (90) days after the election. Upon receipt of
- 21 the certification and upon being satisfied as to the correctness thereof, the State
- 22 Board of Elections shall issue its warrant upon the State Treasurer in favor of the
- 23 county treasurer for the amount of two hundred fifty-five dollars (\$255) for each
- 24 precinct in the county.
- 25 (3) Payments to any county under the provisions of subsection (2) of this section shall
- 26 be terminated if and whenever it fails to renew a lease, contract, or lease and option
- 27 with the State Property and Buildings Commission executed in connection with the

1 acquisition of voting machines by the commission for the use of the county; and
2 payments to any county shall be terminated whenever the county fails to pay any
3 part of the rentals required for any effective period of the lease or if a county board
4 of elections fails to provide training to precinct election officers required by KRS
5 117.187(2).


6 Section 4. Whereas the Commonwealth is scheduled to hold state and local races
7 in 2006, and to assure that if an emergency situation arises elections will be held, an
8 emergency is declared to exist, and this Act takes effect upon its passage and approval by
9 the Governor or upon its otherwise becoming a law.




Speaker-House of Representatives



President of the Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3/8/06